

A person does not incur Retailers' Occupation Tax liability on the gross receipts from an isolated or occasional sale. See 86 Ill. Adm. Code 130.110. (This is a GIL.)

April 14, 2006

Dear Xxxxx:

This letter is in response to your letter dated February 28, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We have a relationship with an unrelated company, (Company B), who manufactures and sells copiers. This relationship consists of us purchasing copiers from B and leasing them to customers. The leases are 'FMV leases'. Retail Occupation Tax is paid on the purchase of the copiers in accordance with Illinois law. At the end of the lease, the lessee can purchase the equipment for FMV; renew the equipment for FMV rental; or return the equipment to us. If lessee elects to return the equipment they can either return it to our warehouse at their expense or we will pick up the equipment for a fee of \$350 per copier. When a copier is returned to the warehouse we sell the equipment to a wholesaler who refurbishes and resells it.

We are not in the business of selling copiers; however, we are contemplating selling this copier portfolio to a third party lessor and ending our relationship with Company B. We believe the sale of the portfolio is not subject to Retailers Occupation Tax under the casual/bulk sale exemption. We will continue however leasing our parent company's manufactured equipment.

Please advise whether your state views this situation differently and if so how.

Thank you for your prompt cooperation in this matter.

DEPARTMENT'S RESPONSE:

A person does not incur Retailers' Occupation Tax liability on the gross receipts from an isolated or occasional sale. See 86 Ill. Adm. Code 130.110. Consequently, the purchaser of that tangible personal property does not incur a corresponding Use Tax liability on that purchase. See 86 Ill. Adm. Code 150.101(d).

An isolated or occasional sale occurs when a company sells tangible personal property, such as machinery, equipment, or other capital assets, that the company has used in its business and no longer needs. The sale will not qualify as an isolated or occasional sale if the company holds itself out as being engaged in the retail sale of that type or similar type of tangible personal property. You may also review the Department's regulations and letter rulings, such as ST 92-0244-GIL and ST 02-0207-GIL, which may be found on the Department's internet website under the heading of "Laws/Regs/Rulings."

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk